

VICTOR H. LOFTUS

NOVEMBER 12, 1943.—Ordered to be printed

Mr. ELLENDER, from the Committee on Claims, submitted the following

REPORT

[To accompany H. R. 3299]

The Committee on Claims, to whom was referred the bill (H. R. 3299) for the relief of Victor H. Loftus, disbursing clerk, American Embassy, Mexico, D. F., Mexico, having considered the same, report favorably thereon without amendment and recommend that the bill do pass.

The facts will be found fully set forth in House Report No. 773, Seventy-eighth Congress, first session, which is appended hereto and made a part of this report.

[H. Rept. No. 773, 78th Cong., 1st sess.]

The Committee on Claims, to whom was referred the bill (H. R. 3299) for the relief of Victor H. Loftus, disbursing clerk, American Embassy, Mexico, D. F., Mexico, having considered the same, report favorably thereon without amendment and recommend that the bill do pass.

The purpose of the proposed legislation is to authorize the Comptroller General of the United States to credit the accounts of Victor H. Loftus, disbursing clerk, American Embassy, Mexico, D. F., Mexico, the sum of \$229.50, public funds for which he is accountable and which were paid to the Banco de Tampico, Tampico, Mexico, for purchase of a bill of exchange, the Banco de Tampico having been closed by the Mexican Banking Commission before the bill of exchange could be presented for payment.

STATEMENT OF FACTS

The recommendation and the facts in detail from the Department of State are herein made a part of this report. Your committee recommend favorable consideration of the bill. Appended hereto is the report from the State Department.

DEPARTMENT OF STATE,
Washington, August 4, 1943.

HON. SAM RAYBURN,
Speaker of the House of Representatives.

MY DEAR MR. SPEAKER: I am transmitting herewith for your consideration a draft of a proposed bill to provide for the relief of Victor H. Loftus, disbursing clerk assigned to the American Embassy, Mexico, D. F., Mexico. The purpose of this bill is to remove a charge which has been set up in Mr. Loftus' accounts by the General Accounting Office.

On November 5, 1938, Jack D. Neal, American vice consul assigned to Tampico, Mexico, purchased from the Banco de Tampico, S. A., a bill of exchange (No. 35673) in the amount of \$229.50. The draft was drawn on the Bank of New York & Trust Co. in favor of the Treasurer of the United States of America for the purpose of transmitting consular fees collected at Tampico for deposit in the Treasury of the United States. On November 23, 1938, the Banco de Tampico was closed by the Mexican Banking Commission and it did not reopen. The Bank of New York & Trust Co. refused to honor the draft for the reason "bank reported closed."

Vice Consul Neal filed a claim for the amount of the draft, \$229.50, with the Mexican Banking Commission which had taken charge of the assets of the closed bank. However, the Department is informed that under the provisions of the General Law of Mexico (art. 48) governing banking institutions, creditors holding unpaid drafts issued in foreign currency by the defunct Banco de Tampico, S. A., are grouped together with creditors for unpaid deposits made in foreign currency under checking accounts and are not entitled to any preferential status. Since preferred creditors will collect only approximately 30 percent of their credits, it is apparent that claims of nonpreferred creditors are worthless.

It is well established that the accountable officer in the first instance is Vice Consul Neal who, at the time the draft was drawn, was the principal officer in charge at Tampico. The charge appears in the accounts of Mr. Loftus, disbursing clerk assigned to the Embassy at Mexico City, however, since Vice Consul Neal's accounts are taken up by Mr. Loftus rather than submitted direct to the General Accounting Office. In this connection you may find of interest the decision of the Comptroller General, A-48061, dated April 5, 1943, involving a similar case wherein it is stated:

"* * * It is, of course, readily apparent that the former consul is primarily liable for the shortages but since no accounts are rendered by him direct, such accounting being only to the district accounting disbursing officer, the Government must look to the latter for an accounting of funds collected, advanced, and disbursed in his district.

"With respect to the matter generally, attention is invited to section 35 of the act of February 23, 1931 (46 Stat. 1216), in which it is provided that such district accounting and disbursing officer accountable for public moneys may entrust moneys to other bonded officers for the purpose of having them make disbursements as his agents, and the officer to whom the moneys are entrusted, as well as the officer who entrusts the moneys to him, shall be held pecuniarily responsible therefor to the United States."

It will be apparent from the foregoing that this loss was not occasioned through any fault or negligence on the part of either Mr. Neal or Mr. Loftus. The transmission of public funds by Vice Consul Neal to the Treasurer of the United States by means of a commercial bill of exchange is in accord with the commonly recognized method of transmitting funds and such action was in pursuance of the accounting regulations promulgated by the Department. The Banco de Tampico was the only American banking institution in the city and its facilities had been used for many years in handling transactions of this nature. There was no reason for Mr. Neal to suspect that the bank was not in a sound financial condition. Every effort has been made to effect collection on this draft, including an investigation as to the possibility of compromising the claim, but it is now established that collection cannot be realized of any part of the amount. In the circumstances I feel that this loss should not be permitted to stand as a personal charge against Mr. Loftus, and I recommend that the Congress enact this proposed bill authorizing and directing the Comptroller General to credit Mr. Loftus' accounts for the amount involved.

The Bureau of the Budget advised that there is no objection to the submission of this report.

Sincerely yours,

CORDELL HULL.

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